

WILLIAMSBURG CITY COUNCIL
JULY 12, 2007
MINUTES

The Williamsburg City Council held its regular monthly meeting on Thursday, July 12, 2007, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler and Messrs. Chohany, Freiling and Braxton. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist. Mr. Haulman was out of the country.

Staff Attending: Assistant City Manager Miller, Assistant City Attorney Workman, Economic Development Director DeWitt and Department Heads Nester, Hudson, Weiler, Serra, and Walentisch.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

*Mr. Chohany Moved That City Council Approve the Minutes of June 11 and 14, 2007.
The Motion Was Seconded by Mr. Braxton.*

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Chohany

No: None

The Mayor noted that there were no public hearings or matters of special privilege.

REPORTS

Monthly Financial Statement

The Monthly Financial Report was received and ordered filed.

End of the Fiscal Year Report

Mr. Serra provided Council members with a recap of Fiscal Year 2007 Operations. Using Powerpoint slides, he provided information about the budgeted versus actual revenues and expenditures as of June 30, 2007, the additional revenues and expenditures projected to come in that will accrue to the FY 2007 budget, projected reserves and revenue trends (see attached report). Mr. Serra reviewed

- General Fund Operating Revenues and estimated additional revenues
- General Fund Operating Expenditures and Accruals
- Estimated Operating Surplus of \$2,346,750
- Sales Tax Fund
- General Fund Reserves and Revenue Growth

Mayor Zeidler thanked Mr. Serra for the year end summary report. She appreciated knowing that the city is financially healthy.

Discussion followed the presentation:

- Property assessments were just received by citizens. Many people are feeling the increase in assessments and taxes. Mr. Tuttle said that the city does have a deferral program for those who qualify. The State law has been further modified as to income limitations and interest charged on deferral taxes. Staff will address this issue in the fall, in advance of the next budget deliberations. Council concurred with the Mayor that they would like to have that information for consideration before the next budget cycle.
- Lodging tax revenues have been budgeted for the last three years at \$1.8 Million; however, \$1.6 Million was collected this past year. The taxes collected are expended with no impact on the budget. Council asked that the figures be more accurately reflected in the budget.
- Council requested information about tax relief in adjoining jurisdictions, and data on average increases and expenses.
- Net worth as defined by State law excludes the value of the residence.
- Mr. Tuttle will provide to Council a copy of the State's Comparative Summary, based on the comprehensive annual financial reports for Williamsburg and other Virginia localities, regarding operating costs and capital expenses.
- Because of higher than expected property assessments, estimated revenue for property taxes was budgeted less than actual. Residential assessments were estimated at 7.2%, but came in at approximately 12%. Commercial property assessments increased 29% overall and land value increased 36%.
- Mr. Tuttle will provide Council with assessment data, and specifically, information about any areas that were higher than estimated.

Monthly Operating Reports

The Monthly Departmental Operating Reports were received and ordered filed.

Planning Report

PCR #07-018: Amendment of the Zoning Ordinance by revising the definitions for Hotel/motel and Visitor, Proposed Ordinance #07-32

Reference for this item was Mr. Nester's report dated July 12, 2007. Mr. Nester said the Planning Commission's recommendation was provided to Council last month. Mr. Nester reviewed a chart comparing the existing hotel/motel regulations, Planning Commission's recommendations, and an alternate proposal (attached). The existing regulations limit the length of stay at 30 days, which ties in with the current transient lodging tax charged. The Planning Commission's recommendation is outlined in Proposed Ordinance #07-32. The City Attorney and he have reviewed the Planning Commission's recommendation, the State enabling legislation, and the city's transient lodging tax (room tax), and based on their findings, an alternate proposal has been developed and is recommended (Proposed Ordinance #07-32A), for Council consideration.

Mr. Nester recommended that before taking action on this case, Council needs to schedule a public hearing. Staff recommended advertising this case for both the Planning Commission recommendation and the alternate proposal. This would be done in conjunction with advertisement of the Transient Lodging Tax.

Mayor Zeidler thanked Mr. Nester and Mr. Phillips for their work. She understood that they have heard from citizens and the hoteliers.

Council, Mr. Nester, and Mr. Phillips discussed:

- The rationale for the recommendation to limit the number of rooms/suites occupied by employees to no more than five percent. Mr. Nester said it was a reasonable figure. There is not a huge demand for housing employees on the premises.
- The correlation between length of stay (90 days) and proposed cap on the lodging tax at 90 days.
- The alternate proposal is reasonable and has been given a lot of thought to benefit hoteliers, residents, and the city.
- The observation that the alternate proposal seems to simplify enforcement and appears to be less cumbersome.

Mayor Zeidler said it was apparent that the city is trying to reach a solution on this matter, and two reasonable proposals have been presented to Council. Council will hold a public hearing on this matter at the August 9 meeting.

City Manager Reports

Endorsement of the New Market Tax Credit Program, *Proposed Resolution #07-10*

Reference for this item was Mr. Tuttle's memorandum dated July 1, 2007. Ms. DeWitt provided Council with information about this exciting federal incentive program. One-third of the city qualifies for New Market Tax Credits. Under guidelines established by the U.S. Department of the Treasury, City of Williamsburg Census Tract 3702 (outlined on the attached map) is eligible for the Program. The NMTC Program offers a 39% federal tax credit for financial investment in eligible commercial projects.

With the City's assistance, Chesapeake Bank hired Kaufman & Canoles Consulting to submit an application to the U.S. Department of the Treasury for \$12 million of NMTC to encourage private investment into business development in Census Tract 3702 in Williamsburg. This credit enables banks and lending institutions to offer lower-than-market rate financing to eligible projects.

Mrs. DeWitt recommended that Council approve the proposed resolution which commends Chesapeake Bank and supports the application to the U.S. Department of the Treasury. A decision on the application is expected in September/October.

Council and Ms. DeWitt discussed:

- The NMTC are available for a period of seven years.
- According to federal guidelines, a business owner in the applicable census tract must serve as one of the members of the non-profit board of the Community Development Entity. Councilman Mickey Chohany currently fills that role; Ms. DeWitt also serves on the five-member board which is advisory to the bank.
- The bank estimated the \$12 Million cost for expansion of the Alexander Commons office park, renovations to First Med on Second Street, and a proposed retail development on the Peterson Track on Second Street, as well as others.
- The tax credit program applies only to land in the city.

- The possibility of using the tax credits for the commercial side of a mixed use development.
- Limits of the program and exclusion of certain businesses in eligible new market tax credit areas.
- Chesapeake Bank was the only bank in the Williamsburg area interested in the New Market Tax Credit Program.
- This is a competitive program. Virginia is not as distressed as some areas of the nation and has a 50/50 chance of obtaining approval. Ms. DeWitt explained the program's criteria.

Mr. Freiling Moved That City Council Adopt Proposed Resolution #07-10, Resolution Endorsing the New Market Tax Credits Program. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Chohany

No: None

(See Attached Adopted Resolution #07-10)

City Attorney Report

Transient Lodging Tax (*Proposed Ordinance #07-33*), schedule public hearing date.

Reference for this item was Mr. Phillips memorandum dated July 5, 2007. Mr. Phillips said that Proposed Ordinance #07-33 is a companion piece to the alternate proposal regarding hotel/motel regulations. If the City's zoning regulations regarding permissible lengths of stay in hotels and other temporary lodging facilities in the City is amended for a permissible length of stay to 90 days stay, this ordinance would change the lodging tax to reflect 90 days instead of 30 days. The ordinance also removes the sunset provision for the \$2.00 lodging tax imposed by the General Assembly. The provision was to expire January 1, 2008, but has already been removed.

Mr. Phillips recommended this matter be scheduled for a public hearing to coincide with the proposed ordinance for hotel/motel and visitor regulations.

Mr. Phillips clarified that the \$2.00 lodging tax would be collected for the entire 90 day period.

Mayor Zeidler said a public hearing will be held at the August 9, 2007 Council meeting.

UNFINISHED BUSINESS

PCR #07-012: Amend the RDT District to require a transitional screening buffer when duplex and multifamily dwellings are adjacent to a lot in a single family PUD District, *Proposed Ordinance #07-29 (tabled at the June 14, 2007 meeting).*

Reference for this item was Mr. Nester's report dated July 12, 2007. Mr. Nester showed a slide of the Crispus Attucks neighborhood and surrounding property that is owned by the Housing Authority. Should the Housing Authority build additional duplex or multifamily housing on the Housing Authority property, this ordinance would require a 25 foot traditional screening buffer next to Crispus Attucks. Council tabled this item at last month's meeting in order to contact the property owners in Crispus Attucks of this change. Mr. Nester said he met with several Crispus Attucks property owners on Monday, July 9, at the request of Joan Vaiden. The consensus was that a buffer may or

may not be needed, depending upon where future residential buildings are proposed on the site. If the need for a transitional buffer was handled through the special use permit process, screening or landscaping could be required by conditions imposed, rather than imposing a standard 25 foot screening buffer. The property owners preferred the special use permit process. Mr. Nester reported that he received an e-mail from Terrence Wehle stating his support of the buffer, but asking that the buffer materials not be stipulated. Based on this input from the neighborhood, he recommended that the proposal to add a 25 foot transitional screening requirement be denied, and proposed that the special use permit process be used to require an appropriate buffer, if, and when, development is proposed on the Housing Authority property.

Mayor Zeidler said that the intent of this proposal was to benefit the neighborhood, and she appreciated residents meeting with Mr. Nester.

Mr. Nester clarified that City Council could require a greater setback through the SUP process. This is the only instance where an RDT district abuts a PUD. Should single family homes be proposed in an RDT District, an SUP would not be required, nor would a buffer be required. The proposed buffer requirement applies only to duplex or multifamily developments.

Mr. Freiling recalled past comments from Mr. Ben Altshuler regarding decisions made about these parcels, and that there were intentions that were not codified at the time, which could have potentially led to problems. Mr. Freiling said he would not want anyone to interpret Council's action at this time as not wanting a buffer between the PUD and multifamily or duplex development in the RDT. He questioned if it would be appropriate to consider a modification to the language of the ordinance that states if the multifamily/duplex development should occur in an RDT next to a PUD, then special consideration should be given to screening or buffer of the property through the SUP process.

Mr. Nester thought that would be understood, based on the special use permit criteria stated in the Zoning Ordinance, in which Council may impose additional landscaping/yard requirements to protect the public interest and welfare.

Mr. Freiling interpreted that language to be what Council could do; he is saying what we should do. His modification would enforce the importance of this issue if the property is developed for multifamily or duplex.

The Mayor's commented that she did not oppose the language recommended by Mr. Freiling, and recognized his good intent, but was not sure it was necessary. Mr. Chohany and Mr. Braxton concurred.

Mr. Chohany Moved That City Council Deny Proposed Ordinance #07-29. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Chohany

No: None

Appointments to Boards and Commissions

Mr. Chohany Moved That *City Council Reappoint **Mr. Edward Richardson** to the Economic Development Authority for a four-year term to expire June 8, 2011; and*

*Appoint **Mr. Taylor Montgomery Mason** to the Economic Development Authority for a four-year term to expire June 8, 2011; and*

*Appoint **Ms. Terry Buntrock** to the Williamsburg Area Arts Commission for a three-year term to expire June 30, 2010.*

The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Chohany

No: None

OPEN FORUM

David Kranbuehl, 201 Harrison Avenue, addressed Council regarding the recent property tax assessments and tax deferrals. People should be made aware of reverse loans and other commercial avenues to help with expenses. City taxes are very low for the services that citizens receive; people spend more money on some types of expendable items than they do on taxes. Paying taxes is a way to reinvest in the city; we are an attractive city and people want to live and visit here. He noted that the \$2.00 lodging tax revenue has declined. Most of the meal tax revenue comes from local residents. Regarding hotel/motel visitor regulations, he was concerned about the possibility of students and visitors with J-1 Visas taking advantage of the 90 day rule. Rigorous enforcement of the 90 day rule will be needed. He was concerned that some hoteliers currently breaking the law regarding room rentals. He asked how Council will regulate the possible deterioration of hotel/motel properties if the 90 day rule is passed.

No one else wished to speak. The session was closed.

The meeting adjourned at 3:18 p.m.

Approved: August 9, 2007

Jeanne Zeidler, Mayor

Shelia Y. Crist, MMC
Clerk of Council